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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

KEVIN VANDGINDEREN,

Plaintiff,

v.

CORNELL UNIVERSITY,

Defendant.

Case No. 07-CV-2045-BTM-JMA

Hon. Barry T. Moskowitz

DEFENDANT'S REQUEST FOR
JUDICIAL NOTICE IN SUPPORT
OF SPECIAL MOTION TO STRIKE
PLAINTIFF'S COMPLAINT
PURSUANT TO SECTION 425.16
OF THE CALIFORNIA CODE OF
CIVIL PROCEDURE

[Per chambers, no oral argument
unless requested by the Court]

[Special Motion to Strike and
Declarations of Valerie Cross Dorn
and Anne Richardson Kenney filed
concurrently]

Hearing Date: December 21, 2007
Time: 11:00 a.m.
Place: Courtroom 15

Action Filed: October 1, 2007

1 Pursuant to Federal Rule of Evidence 201, defendant Cornell University
2 requests that the Court take judicial notice of the following:

3 **Exhibit A:** Ithaca City Court records pertaining to *The People of the State of*
4 *New York v. Kevin Vanginderen*, Docket #D46-171.

5 **Exhibit B:** The archived image of the March 17, 1983 *Cornell Chronicle*
6 that is the subject of this litigation. The image is available at
7 http://ecommons.library.cornell.edu/bitstream/1813/5350/14/014_24.pdf. The
8 allegedly libelous statement is contained on page 6 of the issue (page 15 of Exhibit
9 B).

10 **Exhibit C:** September 3, 2007 e-mail from plaintiff Kevin Vanginderen
11 (kvangin1@yahoo.com) to the Cornell University Library, in which Plaintiff
12 requested that the March 17, 1983 *Cornell Chronicle* story be removed (*see* Compl.
13 ¶ 2).

14 **Exhibit D:** The Order to Show Cause issued by the County Court of
15 Tompkins County and the moving papers submitted in support thereof.

16 Judicial notice is proper because the documents for which this Request is
17 made are “capable of accurate and ready determination by resort to sources whose
18 accuracy cannot reasonably be questioned.” Fed. R. Evid. 201(b)(2); *Lee v. City of*
19 *Los Angeles*, 250 F.3d 668, 689-90 (9th Cir. 2001) (taking judicial notice of a state
20 court’s records); *Fitzgerald v. Penthouse Intern., Ltd.*, 525 F.Supp. 585, 595 n.41
21 (D. Md. 1981), *aff’d in part, rev’d in part on other grounds* 691 F.2d 666 (4th Cir.

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1 1982) (taking judicial notice, in defamation case, of photocopy of magazine article
2 in question).

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4 DATED: November 2, 2007

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9 s/Bert H. Deixler

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11 Attorneys for Defendant,
CORNELL UNIVERSITY